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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/700,139	12/15/2000	Wolfgang Bachmann	HAS-008,01	1980
25181	7590 03/24/2005		EXAMINER	
FOLEY HOAG, LLP PATENT GROUP, WORLD TRADE CENTER WEST			MICHALSKI, JUSTIN I	
155 SEAPORT BLVD BOSTON, MA 02110			ART UNIT	PAPER NUMBER
			2644	
	•		DATE MAILED: 03/24/2005	

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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 09/700,139 Filing Date: December 15, 2000 Appellant(s): BACHMANN ET AL.

Scott E. Kamholz For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 16 November 2004.

(1) Real Party in Interest

A statement identifying the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) Status of Claims

The statement of the status of the claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Invention

The summary of invention contained in the brief is correct.

(6) Grouping of Claims

The rejection of claims 1-4, 6, 8, and 9 stand or fall together because appellant's brief does not include a statement that this grouping of claims does not stand or fall together and reasons in support thereof. See 37 CFR 1.192(c)(7).

(7) Grounds of Rejection to be Reviewed on Appeal

Claims 1, 3, 8, and 9 are rejected under 35 U.S.C. 102(e) as being anticipated by Azima et al. (US Patent 6,003,766).

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Azima.

NEW GROUND(S) OF REJECTION

Claims 2 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Azima et al. in view of Azima et al. (US Patent 6,332,029).

(8) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) Evidence Relied Upon

The following is a listing of the evidence (e.g., patents, publications, Official Notice, and admitted prior art) relied upon in the rejection of claims under appeal.

6,003,766 Azima et al. 12-1999

6,332,029 Azima et al. 12-2001

Webster's New Collegiate Dictionary, G. & C.

Merriam Co., 1977

(10) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1, 3, 8, and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Azima et al ("Azima") (US Patent 6,003,766).

Regarding Claims 1, 3, 8, and 9, Azima discloses a panel loudspeaker which is comprised of at least one sound radiating panel (2) having a core layer (22) and at least one cover layer connected with the core layer (21), a periphery which is formed by a frame (1) that surrounds the at least one sound radiating panel with a later gap (between 20 and 20 of fig. 2a), and at least one connecting element (3) that connects the at least one sound radiating panel with the periphery (20) wherein that at least one connecting element is under mechanical tension when connected with the periphery (col. 4, lines 24 to 36), and wherein regions of the at least one cover layer that are connected with the core layer are also under mechanical tension (inherent that wherein joints 20 are under tension that cover layer 21 is also under tension).

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Azima.

Regarding claim 6, the applicant has claimed that the sound radiating panel is a bass panel adapted to reproduce low-frequency sound. Even though Azima does not explicitly disclose reproducing low frequency sound, it would have been obvious to set the panel speaker to reproduce low frequency as claimed because it would have been a designer's choice to set a system which reproduce a certain range of frequency in an audio signals.

NEW GROUND(S) OF REJECTION

Claims 2 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Azima as applied to claim 1 above in view of Azima ("Azima '029").

Regarding Claim 2, Azima discloses a loudspeaker as stated apropos of claim 1 including the at least one connecting element is formed by the at least one cover layer (Azima discloses that skins, i.e. cover layer, are made of plastics, Col. 3, lines 22-28, and further discloses connecting element 3 is made of plastics, Col. 3, lines 18-19). Azima does not disclose the cover layers of the respective sound radiating panel extends to the periphery. Azima '029 discloses a loudspeaker (Fig. 28) with a panel (22), periphery (101), and outer skin connecting core and extending to the periphery (101), Col. 38, lines 57-67). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to extend the cover layer to the periphery to produce an audio output of a visual display unit as taught by Azima '029.

Regarding Claim 4, Azima discloses a loudspeaker as stated apropos of claim 1 above but does not disclose wherein the periphery is formed by at least one additional panel. Azima '029 discloses a panel loudspeaker (Fig. 18, references 3, 4, 9, and 82) where the periphery (82) is formed by at least one additional panel (2). Azima '029 discloses that the two panels are used to drive different frequency outputs so the loudspeaker can encompass the whole acoustic spectrum (Col. 34, lines 51-64). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made for the periphery is formed by at least one additional panel to produce different

frequency range outputs and encompass the whole acoustic spectrum as taught by Azima '029.

(10) Response to Argument

On page 4, line 25 through page 6, line 3, the appellants have argued that the office has adopted an unreasonably broad interpretation of the term "tension". The appellants' argument is not persuasive as "tension" is defined in Webster's New Collegiate Dictionary (G. & C. Merriam Co., 1977) as: "either of two balancing forces causing or tending to cause extension". As previously stated on page 3, lines 12-14 of the Final Rejection, as the diaphragm (panel) vibrates, it is inherent that the suspension 3 is under mechanical tension. That is, as the panel vibrates, it will inherently produce a force causing or tending to cause extension in at least a part of skin 21, core 22 and suspension 3. Note the term "mechanical tension" is broad as the claim does not put a limitation on what means or conditions produces such a tension.

For the above reasons, it is believed that the rejections should be sustained.

5

This examiner's answer contains a new ground of rejection set forth in section (10) above. Accordingly, appellant must within TWO MONTHS from the date of this answer exercise one of the following two options to avoid *sua sponte* dismissal of the appeal as to the claims subject to the new ground of rejection:

- (1) **Reopen prosecution.** Request that prosecution be reopened before the primary examiner by filing a reply under 37 CFR 1.111 with or without amendment, affidavit or other evidence. Any amendment, affidavit or other evidence must be relevant to the new grounds of rejection. A request that complies with 37 CFR 41.39(b)(1) will be entered and considered. Any request that prosecution be reopened will be treated as a request to withdraw the appeal.
- (2) **Maintain appeal.** Request that the appeal be maintained by filing a reply brief as set forth in 37 CFR 41.41. Such a reply brief must address each new ground of rejection as set forth in 37 CFR 41.37(c)(1)(vii) and should be in compliance with the other requirements of 37 CFR 41.37(c). If a reply brief filed pursuant to 37 CFR 41.39(b)(2) is accompanied by any amendment, affidavit or other evidence, it shall be treated as a request that prosecution be reopened before the primary examiner under 37 CFR 41.39(b)(1).

Extensions of time under 37 CFR 1.136(a) are not applicable to the TWO MONTH time period set forth above. See 37 CFR 1.136(b) for extensions of time to reply for patent applications and 37 CFR 1.550(c) for extensions of time to reply for ex parte reexamination proceedings.

Respectfully submitted,

Justin Michalski

A Technology Center Director or designee must personally approve the new ground(s) of rejection set forth in section (9) above by signing below:

Conferees:

Sinh Tran

SINH TRAN SUPERVISORY PATENT EXAMINER SUPERVISORY PATENT EXAMINER TECHNOLOGY CENTER 2600

PRIMARY EXAMINER

Xu Mei

FOLEY HOAG, LLP PATENT GROUP, WORLD TRADE CENTER WEST 155 SEAPORT BLVD BOSTON, MA 02110

Websters New Collegiate Dictionary

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Library of Congress Cataloging in Publication Data Main entry under title:

Webster's new collegiate dictionary.

Editions for 1898-1948 have title: Webster's collegiate dictionary.

1. English language—Dictionaries.

PE1628.W4M4 1977 423 76-46539

ISBN 0-87779-348-4

ISBN 0-87779-349-2 (indexed)

ISBN 0-87779-350-6 (deluxe)

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Dic

ten-rec \ten-rek \ n [F, fr. Malagasy tåndraka]: any of numerous small often spiny insectivorous mammals (family Tenrecidae) of Madagascar tense \tense \ten

Madagascar

'tennse \ten(t)s\ n [ME tens time, tense, fr. MF, fr. L tempus—
more at TEMPORAL]

1: a distinction of form in a verb to express
distinctions of time or duration of the action or state it denotes 2

a: a set of inflectional forms of a verb that express distinctions of
time b: a particular inflectional form of a verb expressing a
specific time distinction

specific time distinction
2 tense adj tenser; tensest [L tensus, fr. pp. of tendere to stretch
— more at THIN] 1: stretched tight: made taut: RIGID 2 a
: feeling or showing nervous tension b: marked by strain or
suspense 3: produced with the muscles involved in a relatively
tense state < the vowels \enline \text{\enline} and \text{\text{\text{\text{in}}} in contrast with the vowels \text{\text{\text{\text{in}}}}
and \text{\text{\text{\text{in}}} in contrast with the vowels \text{\text{\text{in}}}
and \text{\text{\text{in}}} in relaxed 2 see STIFF ant
expansive — tense-by adv — tense-ness n

Tense vb tensed; tens-ing vi: to make tense \sim vi: to become
tense

Ptense vb tensed; tens-ing vi: to make tense ~ vi: to become tense tense le \tense \te

ten-sion-er \-(->-)nor\ n
ten-si-ty \ten(t)-sat-\ n, pl -ties: the quality or state of being
tense: TENSENESS
ten-sive \ten(t)-siv\ adj: of, relating to, or causing tension
ten-sor\ten(t)-sor, \ten-so(s)r\ n [NL, fr. L tensus, pp.] 1: a
muscle that stretches a part 2: a generalized vector with more
than three components each of which is a function of the
coordinates of an arbitrary point in space of an appropriate number
of dimensions

than three components each of which is a fulliation of the coordinates of an arbitrary point in space of an appropriate number of dimensions

ten-atrike \ten-strik\ n 1: a strike in tenpins 2: a highly successful stroke or achievement

tent \tent\ n [ME tente, fr. OF, fr. L tenta, fem. of tentus, pp. of tendere to stretch—more at Thin) 1: a collapsible shelter of canvas or other material stretched and sustained by poles and used for camping outdoors or as a temporary building 2: DWELLING 3 a: something that resembles a tent or that serves as a shelter; esp: a canopy or enclosure placed over the head and shoulders to retain vapors or oxygen during medical administration b: the web of a tent caterpillar—tent-less \tenten-les\ atendary and and shoulders to retain vapors or oxygen during medical administration b: the web of a tent caterpillar—tent-less \tenten-les\ to lodge in tents \textit{3tent w 1: to cover with or as if with a tent 2: to lodge in tents \textit{3tent w 1: to cover with or as if with a tent 2: to lodge in tents \textit{3tent w 1: to cover with or as if with a tent 2: to lodge in tents \textit{3tent w 1: to cover with or as if with a tent 2: to lodge in tents \textit{3tent w 1: to tenter. fr. attender to attend or attend to ten-ta-cle\ \tenter-les\ \tenter-l

like a tent
ten-ten'tent-or\ n [ME teyntur, tentowre] 1: a frame or endless
track with hooks or clips along two sides that is used for drying and
stretching cloth 2 archaic: TENTERHOOK
ten-ter-hook \tent-or-huk\n: a sharp hooked nail used esp. for
fastening cloth on a tenter — on tenterhooks: in a state of
uneasiness, strain, or suspense
tenth-rate \ten-thrāt\ adj: of the lowest character or quality
tent mak-er \tent-amā-kar\ n: one that makes tents
tent atlet n: a short stitch slanting to the right that is used in
embroidery and canvas work to form even lines of solid background
tent n alog tent-ie\ \tent_ie\ adj \tent_ie\ \tent_ie\ adj \tent_ie\ \tent_ie\

embroidery and canvas work to form even times of soils deak ground tenty also tent-le \tent-& alj [\tent] \ten-\u00e4-\u0

ten-u-ous \ten-y-ws\ adj [L tenuis thin slight tenuos more at IHIN] 1: not dense: RARE <a ~ fluid > 2s not less stender a ~ rope > 3: having little substance of straight IHIN weak <~ influences > (a ~ hold only all y > 1) and tense — ten-u-ous ly adv — ten-u-ous fless of the substance of straight | THIN ant dense — ten-u-ous-ly adv — ten-u-ous-it ten-ure \ten-u-ous-it and tonse ten-u-ous-it ten-ure \ten-u-ous-it and ten-ure \ten-ure \ten-

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mound itself 300 a

sources of hallucinogens n [MexSp, fr. Nahuati-leocratic god + certile ear of com]: a large annual fodder grassift mexicana) of Mexico and Central America closely telain

god + centil ear of corn! a large annual router prasting mexicana) of Mexico and Central America clossly, fedated possibly ancestral to maize te-pa \ 1 [ri- + ethylene + phosphor-ham soluble crystalline compound C₀H₁N.OP that is used chemosterilant of insects, an alleviant in some kinds of can in finishing and flame-proofing textiles te-pa-ry bean \(\text{te-p-e-re-h} n \) [origin unknown! \(\text{an annual bean \((Phaseolus acutifolius \) var. \(\text{latifolius}\) that is native southwestern U.S. and Mexico and is cultivated for its white, yellow, brown, or bluish black edible seeds \(\text{te-pee}\) \(\text{te-lope}\) \(\text

moderately warm : LUKEWARM < . moueratery warm: LUKEWARM <a ~ bath> 2: marked by an absence of enthusiasm or conviction <a ~ inter-est> — te-pid-i-ty \ta-'pid-at-ē, te-\ n — tep-id-ly \tep-ad-lè\ adv — tep-id-

ness n
TEPP \text{\text{te}} \text{-pe} \text{-pe} \n [tetraethyl pyrophosphate] : a mobile hygroscopic
corrosive liquid organophosphate
C,H, 0-P. that is a powerful anticholinesterase and is used as an insecticide and parasympathom

metic agent
te-qui-la \ta-\ke-la, tā-\ n [Sp. fr. Tequila, district of Mexicol \(\)
: a Mexican century plant (Agave tequilana) much cultivated as a source of mescal 2: a Mexican liquor made by redistilling mescal ter abbr 1 terrace 2 territory
ter-comb form [L. fr. ter, akin to Gk & Ski tris three times]: three more at THREE]: three times: threefold: threeker-centenary>

centenary>
tera-\tera-\tera-\comb form [ISV, fr. Gk teras monster — more at TERATOLOGY]: TRILLION terator terator</a

god

te-rato-gen \ta-'rat-a-jan\ n: a teratogenic agent
ter-a-to-gen-e-sis \ter-a-ta-'jen-a-sas\ n [NL. fr. Gk terai-teras
monster + genesis]: production of monstrous growths or fetuses
ter-a-to-gen-ic \'-jen-ik\ adj: tending to cause developmental
malformations and monstrosities — ter-a-to-ge-nic-i-ty \-ja-nis
**Table **T

ter-a-to-log-i-cal \ter-a-t-l-aj-i-kəl\ or ter-a-to-log-ic\ k\ adj\
: abnormal in growth or structure 2: of or relating to teratology \ter-a-tol-o-gy\\ter-a-tol-o-gy\\ter-a-tol-o-gy\\ter-a-tol-o-gy\\ter-a-tol-o-gy\\ter-a-tol-o-gy\\ter-a-tol-o-gy\\ter-a-tol-o-gy\\ter-a-tol-o-gy\\ter-a-tol-o-gy\\ter-a-tol-o-gy\\ter-a-tol-o-gy\\ter-a-tol-o-gy\\ter-a-tol-o-gist\\nable-j-sit\\nable-normal type in organisms — ter-a-tol-o-gist\\nable-j-sit\\nable-normal type in organisms — ter-a-tol-o-gist\\nable-j-sit\\nable-normal ter-a-tol-o-gist\\nable-j-sit\\nable-normal ter-a-tol-o-gist\\nable-j-sit\\nable-normal ter-a-tol-o-gist\\nable-j-sit\\nable-normal ter-a-tol-o-gist\\nable-j-sit\\nable-normal ter-a-tol-o-gist\\nable-j-sit\\nable-normal ter-a-tol-o-gist\\nable-j-sit\\nable-normal ter-a-tol-o-gist\\nable-j-sit\\nable-normal ter-a-tol-o-gist\\nable-j-sit\\nable-normal ter-a-tol-o-gist\\nable-normal t

oridation of turpentine and is used chiefl polyesters
to-rete \(\tau-\text{ic}\), \(\text{te-\}\) adj \([L\) \tert{teres}\) well
to \(L\) \tert{terer}\) to \(\text{tere}\) to \(\text{terer}\) \(\text{

ter-gi-ver-sa-tion \tər-jiv-ər-'sā-shən, -ıgiv : desertion of a cause, party, or faith 2:

with respect to or in relation to <thinks

term w: to apply a term to: CALL. NAI terma-gant \tər-mə-gənt \ n [ME] 1 cc deity represented in early English drama a